Court No.3

Criminal Misc. Application No. 294/2002

Basant Singh Rawat …Petitoiner

Versus

State of Uttaranchal and others …..Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri B.P. Nautiyal learned counsel for the petitioner and Sri V.K.Kohali learned counsel for respondent Nos. 2 and 3 and perused the material on record.

The learned Principal Judge, Family Court has not observed in his impugned order dated 27-8-2002 that the wife respondent No.2 was unable to maintain herself but without this observation or finding granted the interim maintenance. The argument to this effect of the learned counsel for the petitioner has force and in view thereof there are reasons to interfere with the order of the Principal Judge, to that extent.

However it is also not disputed that the 20 years old daughter is residing with respondent No.2, the wife. She is prosecuting her studies and while prosecuting the studies she is not supposed to earn her livelihood. Considering the averment of the petition which was filed before the Family Court and also considering the salary of the petitioner it will be just and proper to award interim maintenance in favour of the daughter respondent No.3. The learned counsel for the petitioner submitted that the daughter is neither handicapped nor she is minor and therefore she is not entitled to be awarded any interim maintenance. Having considered this aspect also and the fact that the young daughter of the petitioner is prosecuting here studies without being supported by the father petitioner it will be just and proper to award the maintenance to her so that she may continue her studies and maintain herself nicely as a student.

The petitioner is a teacher and his salary is more than Rs. 10,000/-. Per month. Considering this a sum of Rs. 5000/- as interim maintenance to the respondent No.3 daughter shall be just and proper so that she may nicely keep herself and continue her studies.

In view of the above the impugned order need to be modified to that extent. The petition is disposed of accordingly. The petitioner is directed to pay interim maintenance at the rate of Rs. 5000/- per month to respondent No.3 from the date of the application. The arrears of the interim maintenance allowance shall be paid within a period of one month, failing which the Principal Judge, Family Court shall initiate recovery proceedings against him.

Dated 2-9-2003 **(Irshad Hussain, J.)**

ISB